

### **REMARKS**

The Specification has been amended. Claims 1 - 2 have been amended, and Claims 13 - 14 have been added. No new matter has been introduced with these amendments or added claims, all of which are supported in the application as originally filed. Claims 3 - 12 have been cancelled from the application without prejudice. Claims 1 - 2 and 13 - 14 are now in the application.

Applicants are not conceding that the subject matter encompassed by the claims as presented prior to this Amendment/Response is not patentable over the art cited by the Examiner, and claim amendments and cancellations made in the present application are directed toward facilitating expeditious prosecution of the application and allowance of the currently-presented claims at an early date. Applicants respectfully reserve the right to pursue claims, including the subject matter encompassed by the claims as previously presented and additional claims, in one or more continuing applications.

I. Information Disclosure Statement Form PTO/SB/08

Applicants have noted that the file wrapper for the application includes a Form PTO/SB/08 with a reference which has not been initialled by the Examiner. This Form PTO/SB/08 was submitted on September 28, 2007, citing the single non-patent literature document of Lemay et al. This Form PTO/SB/08 was included in a previous Office Action dated November 2, 2007 and the form itself was signed and dated by the Examiner, although

the citation to the reference was not initialled. Applicants respectfully request that the Examiner consider this reference, if not already done, and so signify by initialling the Form PTO/SB/08.

II. Double-Patenting Rejection

Paragraph 1 of the Office Action dated May 30, 2008 (hereinafter, "the Office Action") states (on Page 2) that Claims 1, 6, 10, and 12 of the instant application are rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, and 7 of U. S. Patent 7,308,649. Paragraph 1 of the Office Action further states (on Page 3) that Claims 1 - 2 and 4 - 12 of the instant application are rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of co-pending application serial number 10/675,418.

Claims 4 - 12 have been cancelled from the application without prejudice, rendering this rejection moot as to those claims. Terminal disclaimers are submitted herewith, and Applicants respectfully submit that these terminal disclaimers obviate the double-patenting rejection with regard to remaining Claims 1- 2. The Examiner is therefore respectfully requested to withdraw the double-patenting rejection.

III. Rejection under 35 U. S. C. §102(e)

Paragraph 2 of the Office Action states that Claims 1 - 5 and 10 - 12 are rejected under

35 U.S.C. §102(e) as being anticipated by U. S. Patent 7,159,182 to Narin. Claims 3 - 5 and 10 - 12 have been cancelled from the application without prejudice, rendering the rejection moot as to those claims. This rejection is respectfully traversed with regard to remaining Claims 1 - 2 as currently presented.

Independent Claim 1, as currently presented, recites:

A computer-implemented method of providing autonomic content load balancing, comprising:  
defining a plurality of alternative versions of a Web page to be served;  
defining, for the Web page, a plurality of factors, wherein the factors comprise at least one of: processing load on a server that serves the Web page and traffic load on a network on which the Web page is served;  
creating a mapping, for the Web page, between each of the alternative versions and particular values for each of the plurality of factors, thereby defining when each of the alternative versions is to be selected for serving;  
specifying, in a markup language document defining the Web page, a syntax extension and a placeholder for a subsequently-selected one of the alternative versions, wherein the syntax extension comprises an identification of each of the defined factors;  
subsequently receiving, at the server from a client, a request for the Web page; and  
responsive to receiving the request, analyzing the syntax defining the Web page to determine whether the syntax extension is specified therein, and if so:  
obtaining the identification of each of the defined factors from the specified syntax extension;  
dynamically determining, by the server, a current value for each of the factors for which the identification is obtained;  
consulting the mapping, using the dynamically determined current values, to determine which one of the alternative versions is selected for serving;  
replacing the placeholder with the selected one of the alternative versions; and  
serving the markup language document defining the Web page to the client as a response to the request. (emphasis added)

Applicants respectfully submit that Narin fails to teach at least the above-underlined recitations of Claim 1, as will now be discussed.

Applicants find no teaching in Narin of the “specifying, in a markup language defining the Web page, a syntax extension and a placeholder ... wherein the syntax extension comprises an identification of each of the defined factors” as recited on lines 12 - 14 of Claim 1 (emphasis added). This is supported in Applicants’ application in (at least) **Fig. 3** and its corresponding text on p. 17, line 10 - p. 18, line 7. See, in particular, the discussion of reference numbers **310** and **340**, which illustrate syntax extensions, and reference numbers **380** and **390**, which illustrate placeholders. Reference numbers **330 - 330** and **350 - 370** further illustrate the claimed “an identification of each of the defined factors”.

Applicants also find no teaching in Narin of the “responsive to receiving the request, analyzing the syntax defining the Web page to determine whether the syntax extension is specified therein ...” as recited on lines 16 - 17 of Claim 1 (emphasis added), and accordingly, Applicants respectfully submit that Narin also does not teach their recited claim language on lines 18 - 26, where the recitations therein are performed following from this “responsive to ...” claim element. This claim language on lines 16 - 26 of Claim 1 is supported in Applicants’ application in (at least) **Fig. 8** and its corresponding text on p. 22, line 19 - p. 26, line 5. For example, the claimed “... analyzing the syntax ... to determine whether the syntax extension is specified therein ...” is illustrated at **Block 820** and is discussed on p. 23, lines 8 - 10 (“... a

scan of Web page 300 might be performed to determine whether there are any '<VariableContent>' [i.e., syntax extensions] elements encoded therein").

In view of the above, Applicants respectfully submit that Narin fails to disclose each and every limitation of independent Claim 1 and that their independent Claim 1 is therefore not anticipated by Narin according to the holding in *Apple Computer Inc.*, where the Court of Appeals for the Federal Circuit stated, "Anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Apple Computer Inc. v. Articulate Sys. Inc.*, 57 U.S.P.Q.2d 1057, 1061 (Fed. Cir. 2000), emphasis added.

Dependent Claims 2 and 13 depend from Claim 1, and these dependent claims are therefore considered patentable by virtue of (*inter alia*) the patentability of Claim 1.

Added independent Claim 14 recites claim language which is similar to that of Claim 1, including a similar (although not identical) "specifying ..." claim element (see Claim 14, lines 12 - 15) and a similar (although not identical) "responsive to receiving the request ..." claim element (see Claim 14, lines 17 - 31). Claim 14 is therefore deemed patentable over Narin as currently presented.

In view of the above, the Examiner is respectfully requested to withdraw the §102 rejection.

IV. Rejection under 35 U. S. C. §103(a)

Paragraph 3 of the Office Action states that Claims 6 - 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Narin in view of U. S. Patent 5,649,200 to Leblang et al. (hereinafter, "Leblang"). Claims 6 - 9 have been cancelled from the application without prejudice, rendering this rejection moot.

The Examiner is therefore respectfully requested to withdraw the §103 rejection.

V. Conclusion

Applicants respectfully request reconsideration of the pending rejected claims, withdrawal of all presently outstanding rejections, and allowance of all remaining claims at an early date.

Respectfully submitted,

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